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HIGH COURT OF CHHATTISGARH AT BILASPUR

CORAM: - HON'BLE SHRI JAGDISH BHALLA, Ag. CJ &
HON'BLE SHRI SUNIL KUMAR SINHA, J.

Writ Appeal (PR) No. 3846 of 2007

PETITIONER: Baidhnath Nag S/o. Devi Singh aged about 30 years, Occupation – Kotwar, R/o. Village Kohakapal, Tahsil – Jagdalpur, District – Jagdalpur (Bastar) (C.G.)

Vs.

RESPONDENTS:

1. The Board of Revenue Bilaspur, Through the Chairman, Circuit Court Jagdalpur (C.G.)
2. The Collector, Jagdalpur, district – Jagdalpur (C.G.)
3. The Additional Collector, Jagdalpur, District – Jagdalpur (C.G.)
4. The Sub Divisional Officer, Jagdalpur, District – Jagdalpur (C.G.)
5. The Tahsildar, Jagdalpur, District – Jagdalpur (C.G.)
6. Tulsi Ram S/o – Rajibo Mehra aged about 35 years,
7. Smt. Padma Bai W/o – Jeevnath aged about 55 years.
8. Sonadhar S/o – Mala Mehra aged about 40 years.
9. Phool Chand S/o – Khogeshwar Mehra aged about 24 years,

Res. No. 6 to 9 all R/o – Village – Kohakapal, Tahsil – Jagdalpur, District – Jagdalpur (Bastar) (C.G.)

{Writ appeal under Section 2 (1) of the High Court of Chhattisgarh (Appeal to Division Bench) Act, 2006}

Present: None appears on behalf of the appellant.

Shri Prashant Mishra, Additional Advocate General with Shri U.N.S. Deo, Government Advocate for the State/ respondents No.1 to 5.

ORAL JUDGMENT
(Passed on 13th August, 2007)

The following oral judgment of the Court was passed by **Hon'ble Jagdish Bhalla, Ag CJ.**

This writ appeal arises out of an order passed in Writ Petition filed under Article 227 of the Constitution of India.

Before coming into force of the High Court of Chhattisgarh (Appeal to Division Bench) Act, 2006 (for short 'the Act, 2006'), intra court appeals were being filed under the provisions of the Madhya Pradesh Uchcha Nyayalaya (Letters Patent Appeals Sampati) Adhiniyam, 1981. The said provision of Letters Patent Appeal was repealed by the Act, 2006 and by the same notification, Chhattisgarh High Court Rules, 2005 came into force wherein the provision of appeal is provided under Rule 2 which is as follows: -

> "2. Appeal to the Division Bench of the High Court from a Judgment or order of one judge of the High Court made in exercise of original jurisdiction:- (1) An appeal shall lie from a judgment or order passed by one Judge of the High Court in exercise of original jurisdiction under Article 226 of the Constitution of India, to a Division Bench comprising of two Judges of the same High Court:

Provided that no such appeal shall lie against an interlocutory order or against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

(2) An appeal under sub-section (1) shall be filed within 45 days from the date of order passed by a single Judge.

Provided that any appeal may be admitted after the prescribed period of 45 days, if the petitioner satisfies the Division Bench that he had sufficient cause for not preferring the appeal within such period.

Explanation: - The fact that the petitioner was misled by any order, practice or judgment of the High Court in ascertaining the prescribed period may by sufficient cause within the meaning of this sub-section."

From the perusal of the aforesaid provision, it is crystal clear that no appeal shall lie against an order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India. Same view has been taken by a Division Bench of this Court in W.A. (PR) No. 3486/2007 which one of us (Hon'ble Shri Jagdish Bhalla, Acting Chief Justice) is a Member.

In light of the above discussion, *intra* Court appeal is not maintainable against the order passed in exercise of supervisory jurisdiction under Article 227 of the Constitution of India.

Accordingly, the writ appeal is dismissed.

Acting Chief Justice

Sd/-
Sunil Kumar Sinha
Judge